

Prather, Laura

From: Steven S. Biss <stevenbiss@earthlink.net>
Sent: Wednesday, January 15, 2020 12:21 PM
To: Bodney, David J.
Cc: tyclevenger@yahoo.com; Prather, Laura; BuconI@ballardspahr.com
Subject: Re: Butowsky v. Folkenflik, et al.: Response to Subpoena

⚠ EXTERNAL

David,

Thank you for this email.

Ed called me as well this morning from the hospital. He was admitted a little over a week ago with a life-threatening condition. I understand he almost died. He has stabilized, but is still in the hospital.

I request an extra week for Chapwood to comply with your subpoena. I do not represent Ms. Sams, but I can probably help facilitate production of her documents.

No one is trying to frustrate NPR's discovery rights. You have subpoenaed virtually everyone (and many more) we disclosed pursuant to Rule 26, except for EBay which is really strange. We have not opposed a single one of your subpoenas. Ed's medical issues, of which you are aware, are good cause for an extra week.

Finally, I expect to file my motion to compel tomorrow or next Tuesday if I run out of time tomorrow. I have exhausted my efforts to meet and confer.

From: Bodney, David J.
Sent: Wednesday, January 15, 2020 1:03 PM
To: Steven S. Biss
Cc: tyclevenger@yahoo.com ; Prather, Laura ; BuconI@ballardspahr.com
Subject: FW: Butowsky v. Folkenflik, et al.: Response to Subpoena

Dear Steven:

As you know, NPR has been endeavoring to obtain documents from Chapwood Investments and Kim Sams since last November. Neither Chapwood nor Sams responded to the subpoenas duces tecum that our co-counsel caused to be issued and served on them nearly two months ago.

For that reason, before filing motions to compel their compliance with NPR's subpoenas, we sent an email to Ms. Sams yesterday (a) explaining our need for the documents, (b) noting that if they continue to disregard the subpoenas NPR will have no choice but to file motions to compel their compliance, and (c) inviting them to call or respond to the email (or, if represented by counsel, have their counsel call or respond to the email). A copy of that email to Ms. Sams appears below.

To our surprise, this morning Ed Butowsky called and left a voicemail message with Ian Bucon, my associate, who sent the email message yesterday to Ms. Sams. Mr. Butowsky asked Mr. Bucon to call him back and left his phone number.

As you can appreciate, we are not comfortable communicating directly with your client, Mr. Butowsky, without your permission. If you consent to our communication with Mr. Butowsky about Chapwood's compliance with the subpoena, please confirm by reply email, and we can return his call.

In any event, a conversation with Mr. Butowsky about the Chapwood subpoena would not obviate our need for documents from Ms. Sams.

If you represent Chapwood or Ms. Sams, please let us know and reply to the email message below as soon as possible today. If you know who does represent them, please identify their lawyers for us as soon as possible.

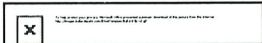
Their failure to comply with lawful subpoenas is frustrating NPR's discovery rights.

Thank you.

Very truly yours,

David

David J. Bodney



1 East Washington Street, Suite 2300
Phoenix, AZ 85004-2555
602.798.5454 DIRECT
602.798.5595 FAX

602.315.1547 MOBILE | bodneyd@ballardspahr.com
VCARD

www.ballardspahr.com

From: Bucon, Ian (PHX) <BuconI@ballardspahr.com>
Sent: Tuesday, January 14, 2020 7:56 PM
To: kim@chapwoodinvestments.com
Cc: Bodney, David J. (PHX) <BodneyD@ballardspahr.com>
Subject: Butowsky v. Folkenflik, et al.: Response to Subpoena

Ms. Sams:

Our law firm, along with Haynes and Boone, LLP, represents National Public Radio, Inc. and several of its employees (collectively, "NPR") in litigation in the Eastern District of Texas in *Butowsky v. Folkenflik, et al.*, No. 4:18-cv-00442-ALM (the "Litigation").

On November 21, 2019, under the authority of the United States District Court for the Eastern District of Texas, NPR issued a subpoena to you (the "Subpoena"), seeking discovery related to the Litigation. A process server personally served you with the Subpoena on November 22, 2019 at the offices of Chapwood Investments in Plano. According to the terms of the Subpoena, you were required to produce documents at the offices of Haynes and Boone, LLP in Dallas by December 12, 2019 at 12:00 p.m. Your response to the Subpoena is now past-due. Given your failure to respond to

the Subpoena, NPR is preparing a file a motion to compel your compliance with the Subpoena, which it intends to file promptly.

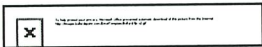
Similarly, NPR issued a subpoena to Chapwood Capital Investment Management LLC (the "Chapwood Subpoena") in November. The response to the Chapwood Subpoena is also past-due, and NPR is prepared to file a motion to compel compliance with the Chapwood Subpoena.

Please call us – or respond to this email – at your earliest convenience. If we do not hear from you by the close of business tomorrow, January 15, 2020, we shall have no choice but to file the above-referenced motions to compel in federal court.

We are contacting you directly because we have not been informed that you are represented by legal counsel. If you are represented by counsel, please have your attorney contact us by the close of business tomorrow.

Best regards,

Ian O. Bucon



1 East Washington Street, Suite 2300
Phoenix, AZ 85004-2555
602.798.5522 DIRECT
602.798.5595 FAX

buconi@ballardspahr.com
VCARD

www.ballardspahr.com

Steven S. Biss
(Virginia State Bar # 32972)
300 West Main Street, Suite 102
Charlottesville, Virginia 22903
Telephone (804) 501-8272
Facsimile: (202) 318-4098
Email: stevenbiss@earthlink.net
Email: stevensbiss@protonmail.ch
www.linkedin.com/in/steven-s-biss-6517037

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